

Honorable Ronald B. Leighton
Hearing Location: Tacoma

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION

NICHOLAS CHRISTOFORO, an infant, by
and through his mother and next friend,
Jessica Christoforo,

and

JESSICA CHRISTOFORO,

and

JAMES CHRISTOFORO,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

NO: CV 4-5462 RBL

ORDER APPROVING ANNUAL
REPORT

HEARING DATE:
Friday, July 29, 2010
Oral Argument Not Requested

THIS MATTER having come on regularly for hearing before The Honorable Ronald B. Leighton on the date shown below upon the Petition of Trustee for the entry of an order approving its annual report and fees, filed by Wells Fargo Bank, NA, Trustee of the Nicholas Christoforo Supplemental Needs Trust, u/a dtd March 30, 2006 ("Trust"), the Trustee being represented by Aiken, St. Louis & Siljeg, P.S., and the Court having considered the Petition, all attachments to the Petition, and being fully advised in the premises, Now Therefore, the Court Makes the Following:

ORDER APPROVING ANNUAL REPORT AND FEES - 1
Cause No.: CV 4-5462 RBL

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I. FINDINGS OF FACT

1.1 The facts alleged in the Petition for Order Approving Annual Report and Fees, and all attachments to that Petition are true and include all of the facts necessary to give the Court jurisdiction over this matter.

1.2 It appears to the Court that all acts required of the Trustee have been performed.

1.3 It appears to the Court that the accounting submitted by the Trustee is correct.

1.4 Notice of the hearing on this matter has been properly provided to the parties entitled to receive such notice.

1.5 Nicholas' doctors believe that it is in Nicholas' best interest to remain in Seattle, Washington and to continue to receive the care and therapies he is receiving at Children's Hospital and elsewhere in Seattle to reduce his self-injurious behavior and to modify his behavior generally.

1.6 Based upon the information provided to the Trustee all parental support and other benefits available to Nicholas have been exhausted.

1.8 Financial assistance from the Trust appears to be necessary to allow Nicholas to remain in Seattle, and avail himself of the treatment and therapies to enhance his quality of life and to relocate him to a safer home.

1.9 Pursuant to Article 5, subparagraph B, the Trustee has the sole and absolute discretion to determine the amount and nature of any disbursements for the benefit of Nicholas Christophoro.

1.10 No Trust provision expressly prohibits financial assistance from the Trust that would allow the beneficiary to reside in an area that gives him access to specialized treatment for his special needs, nor is there any provision of the Trust that prohibits funds from being

1 disbursed to relocate the beneficiary to a safer living environment. The evidence before the
2 Court suggests that the support is necessary. Considering the size of the corpus of the Trust
3 now, and the future annuity income of the Trust, the proposed disbursements of \$8,100 for
4 relocation costs and ongoing support for living expenses in the amount of \$927.00 per month
do not seem unduly burdensome for the Trust.

5 Based upon the Findings of Fact set forth above the Court makes the following:

6 II. CONCLUSIONS OF LAW

7 2.1 The Court has jurisdiction over the parties and the subject matter of this trust
8 proceeding.

9 2.2 The Court should enter an Order approving the accounting and all acts of the
10 Trustee for the period from May 1, 2010 through April 30, 2011.

11 2.3 The Trustee has properly sought instructions from the Court pursuant to RCW
12 11.96A.030 to seek the authority to do or to abstain from taking any action in its fiduciary
13 role.

14 2.4 It is within the terms of the Trust for the Trustee to exercise its discretion and
15 provide financial assistance to or for the benefit of Nicholas so that he may continue to reside
16 in Seattle to receive the care and treatment recommended by his doctor. It is also within the
17 terms of the Trust to provide financial assistance to or for the benefit of Nicholas to relocate
him to a safer home environment.

18 Based on the foregoing Findings of Fact and Conclusions of Law, the Court makes the
19 following:

20 III. ORDER

21 3.1 The accounting of Wells Fargo Bank, N.A., the Trustee of the Nicholas
22 Christoforo Supplemental Needs Trust, u/a dtd March 30, 2006, and all of the Trustee's
23 accounts, actions, investments, and expenditures set forth in the accounting for the period
24 from May 1, 2010 through April 30, 2011 are approved.

1 3.2 Over the course of the next year, the Trustee may disburse up to \$8,100 to
2 assist Nicholas relocate to a new rental home in Seattle, Washington and to disburse up to
3 \$927.00 per month to make sure that Nicholas can remain in Seattle and have access to
4 therapies necessitated by his special needs.

5 3.2 The fees of Wells Fargo Bank, N.A. as Trustee of the Nicholas Christoforo
6 Supplemental Needs Trust, u/a dtd March 30, 2006 for the period from May 1, 2010 through
7 April 30, 2011 are approved. The payment of the approved fees and costs from the assets of
8 the Trust estate shall be and hereby is ratified.

9 3.3 The next annual report and accounting of the Trustee shall cover the period
10 from May 1, 2011 through April 30, 2012 and shall be filed no later than 90 days after April
11 30, 2011.

12 Dated this 6th ^{September} day of ~~July~~, 2011.

13 
14 HONORABLE RONALD B. LEIGHTON

15 Presented by:

16 AIKEN, ST. LOUIS & SILJEG, P.S.

17 /s/ Corey T. Denevan

18 Corey T. Denevan, WSBA # 32114
19 Attorneys for Trustee